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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,142	02/09/2004	Takao Nakajima	26GT-004-DIV2	5428

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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON, VA 20191

EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/773,142

Applicant(s)

NAKAJIMA ET AL.

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/043,166.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/9/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Since the preliminary amendment of February 9, 2004 was not considered in preparing the previous Office action, the election/restriction requirement is no longer proper. However, should the applicant amend the claims to recite the specific features of the species listed in the previous Office action, the election/restriction requirement will be proper and made again.

Drawings

Figures 23 and 30 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because reference characters such as "11" in figure 1 should not be underlined. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as

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"amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Double Patenting

Claims 34-38 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,716,496 in view of the admitted prior art in figures 23-25. Claims 1-4 of U.S. Patent No. 6,716,496 disclose the claimed invention but for a cutoff part and the attachment portion being curved along the corner section.

However, the admitted prior art of figures 23-25 discloses a weather strip 51 comprising an extruded body having straight sections (S) and a corner section (C) curving therebetween, said extruded body comprising an attachment portion 53 and a hollow sealing portion 54, the attachment portion being configured for attachment to a flange 2; wherein the corner section of the extruded body comprises a cut off part (not

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numbered, but shown in figure 24) being made on said hollow sealing portion along the corner section, said attachment portion being curved along the corner section, and a corner-shaped molded part 57 being formed by filling a molding material into the cut off sealing portion; wherein said weather strip further comprises a reinforcing portion (not numbered, but comprising the portion of the molded part 57 which is disposed within the sealing portion 54) for maintaining curved shape which prevents transformation of said corner-shaped molded part due to the recovery of the straight shape of the corner section.

It would have been obvious to one of ordinary skill in the art to provide claims 1-4 of U.S. Patent No. 6,716,496 with a cutoff part and a curved attachment portion, as taught by the admitted prior art of figures 23-25, to more easily manufacture the weather strip.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because "is disclosed" on lines 2-3 can be easily implied and therefore should be deleted. Correction is required. See MPEP § 608.01(b).

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested that the applicant amend the title to include the molded corner section.

The disclosure is objected to because of the following informalities: on line 1 of page 16, "reference to Figs.." is grammatically awkward and confusing. Additionally, it is suggested that the applicant remove the bracketing around recitations such as "First Embodiment" on line 4 of page 16 to prevent the recitation as being misconstrued as being deleted. Finally, the status of the parent applications 10/043,166 and 09/181,670 needs to be updated to indicate that the applications have issued as patents.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 34-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "a cutoff part being made on said hollow sealing portion" on line 5 of claim 34 render the claims indefinite because it is unclear what the applicant is attempting to set forth. Is the applicant referring to the part of the hollow sealing part that is removed from weather strip or is the applicant referring to the opening created by

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the removal of the part of the hollow sealing part that is removed. Recitations such as "curved shape" on line 10 of claim 34 render the claims indefinite because it is unclear what element of the invention to which the applicant is referring. Recitations such as "the straight shape of the corner section" on line 11 of claim 34 render the claims indefinite because they lack antecedent basis. Recitations such as "injection molding from a hard resin" on line 3 of claim 36 render the claims indefinite because it is unclear what the applicant is attempting to set forth.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 34-37 are rejected under 35 U.S.C. 102(b) as being anticipated by the admitted prior art of figures 23-25. The admitted prior art of figures 23-25 discloses a weather strip 51 comprising an extruded body having straight sections (S) and a corner section (C) curving therebetween, said extruded body comprising an attachment portion 53 and a hollow sealing portion 54, the attachment portion being configured for attachment to a flange 2; wherein the corner section of the extruded body comprises a cut off part (not numbered, but shown in figure 24) being made on said hollow sealing portion along the corner section, said attachment portion being curved along the corner section, and a corner-shaped molded part 57 being formed by filling a molding material

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into the cut off sealing portion; wherein said weather strip further comprises a reinforcing portion (not numbered, but comprising the portion of the molded part 57 which is disposed within the sealing portion 54) for maintaining curved shape which prevents transformation of said corner-shaped molded part due to the recovery of the straight shape of the corner section.

Claim Rejections - 35 USC § 103

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art of figures 23-25 as applied to claims 34-37 above, and further in view of Nozaki '937. Nozaki '937 discloses a weather strip comprising an insert 61 having two ribs (not numbered, but shown in figure 5B as the vertical portions of the cut 51 extending above and below the opening).

It would have been obvious to one of ordinary skill in the art to allow the molding part of the admitted prior art of figures 23-25 to extend beyond the opening in the hollow sealing portion, as taught by Nozaki '937, to increase the strength of the corner section.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nakatani et al., Jimma et al., Nozaki '989 and Nakajima et al. '496 are cited for disclosing a weatherstrip having means for bending at the corner of a vehicle door opening.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a stylized flourish at the end.

Gregory J. Strimbu
Primary Examiner
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July 8, 2005